



Battle Creek Zoning Board of Appeals

Staff Report

Meeting: June 11, 2013
Appeal #Z-04-13

To: Zoning Board of Appeals
From: Glenn Perian, Senior Planner
Date: June 3, 2013
Subject: Petition for a dimensional variance (Z-04-12) to permit the construction of a 2,900 square foot accessory building in the front yard on property located at 0085-00-810-0 on South Minges Road.

Summary

This report addresses a petition from P. Jeffrey Colquhoun, seeking approval of a Dimensional Variance (Z-04-13), to place a 2,900 sq. ft. accessory building in a front yard on residentially zoned property (R-1R).

Background/Project Information

The subject site is located on residentially zoned property where South Minges Rd makes a right-angle turn, south of Beckley Rd. and east of Perry Rd. The subject lot is zoned R-1R "Rural Residential". The subject lot has approximately 703' of frontage on South Minges Rd., is approximately 53.5 acres in size and meets the minimum standards for lots in the R-1R zoning district. The appellant has stated that there is currently a "cottage" located on the property at the bank of the pond and there is no plumbing attached to the structure. The request is to construct an accessory building in the front yard, 2,900 sq. ft. in size on the property. It is our understanding that the parcel will be increased in size by an additional .21 acres (see attached survey) and the additional property being acquired has a 26' x 60' (1,560 sq. ft.) barn located on it. Chapter 1286.03(c) of the Planning and Zoning Code specifically states that any one accessory building shall not exceed 1,500 square feet in size, and Chapter 1286.05(a) specifically states accessory buildings shall not be erected in the front yard of a lot or parcel. Front yards are defined as that area measured by the full width of the front lot line to a depth measured from such lot line to the first supporting member of the main structure (in this case, the cottage), and a side yard means a yard between the main building and the side line of a lot that extends from the front yard line to the rear yard line. The request is for a dimensional variance to allow a 2,900 sq. ft. accessory building closer to the street than the main structure, in the front yard.

Legal Description

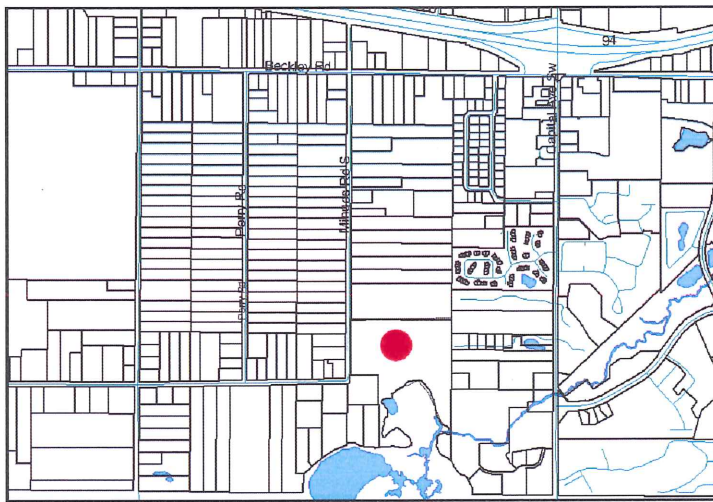
SEC 35 T2S R8W W 1/2 OF SE 1/4 EXC N 452.4FT THEREOF ALSO EXC COMM N1/4 POST - S 0 DEG 51 MIN 0 SEC W ALG N & S 1/4 LI 3807.12 FT TO TRUE POB - S 88 DEG 39 MIN 0 SEC E 388.75 FT - S 01 DEG 25 MIN 0 SEC W 378.45 FT - N 88 DEG 39 MIN 00 SEC W 385 FT - N 00 DEG 51 MIN 00 SEC E ALG N & S 1/4 LI 378.46 FT TO POB, ALSO EXC COMM N 1/4 POST - S 00 DEG 51 MIN 00 SEC W ALG N & S 1/4 LI 4185.58 FT TO TRUE POB - SLY ALG N & S 1/4 LI 1100 FT M/L TO S SEC LI - ELY ALG S SEC LI 405 FT -

NLY PAR WITH N & S 1/4 LI 1100 FT M/L TO LI RNG S 88 DEG 39 MIN 00 SEC E FROM POB - N 88 DEG 39 MIN 00 SEC W 405 FT M/L TO POB, CONT 53.46 A M/L SUBJ TO HWY EASE OVER W 33 FT THEREOF

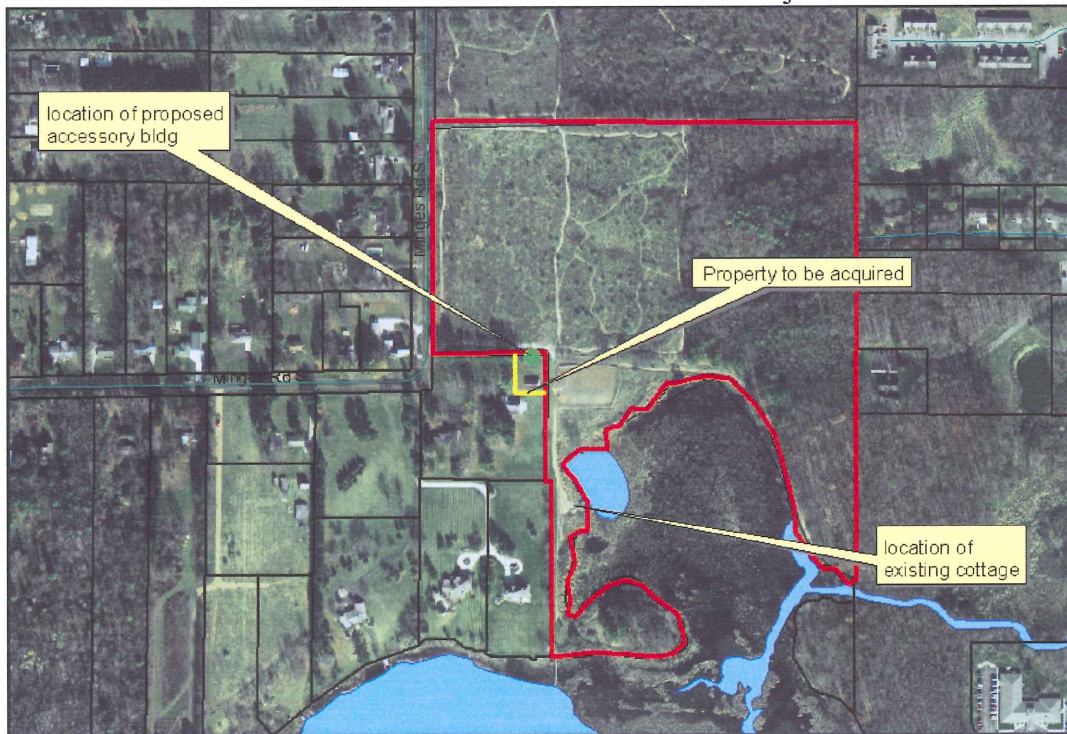
Public Hearing and Notice Requirements

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on Thursday, May 23, 2013, not less than the 15 days before the hearing as required by State Law and ordinance.

Twenty-nine (29) notices of the public hearing were also sent by regular mail on May 21, 2013, to property owners and occupants located within 300 feet of the subject parcel. We have not received any correspondence in response to the notification of this hearing.



Subject location



Surrounding Land Uses

The subject property is located in a rural neighborhood in the southern part of the City.

Applicable Zoning Ordinance Provisions

Chapter 1234.04

- (b) The Board shall have the authority to grant the following variations:
 - (1) **Nonuse.** If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125.3101 et seq.; and [MCL 125.3604(7) and (8).]

Analysis

The Appellant is requesting a variance to allow a 2,900 sq. ft. accessory building to be placed in the front yard on property located on South Minges Rd. The Appellant has stated in the supporting material the property is 53 acres in size, larger than adjacent property, the proposed building will be less than 1% of the parcel area, and the proposed building will house maintenance equipment. The Appellant has supplied a survey of the property and land to be released along with the location of the proposed building. Drawings of what the proposed building will look like have also been provided. Aerial photos of the property have been included in the packet and the Appellant is expected to be in attendance to answer any questions you may have with the request.

Is there something unique about this lot or property that makes relief necessary? We would agree that the subject lot is larger than most in the rural residential neighborhood. However, Chapter 1286 of the Planning and Zoning Code specifically states the maximum size and where accessory structures may be placed on residential and agriculturally zoned property. The aerial photo on page 2 of this report shows that there are alternative locations on the property where the proposed accessory building could be located in conformance with code requirements. Furthermore, the Appellant has the option of constructing two or more accessory buildings on the property as long as all the buildings do not exceed 10% of the lot area and each building does not exceed 1,500 sq. ft. in size. These options were explained to the Appellant.

Findings and Recommendation

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and we believe that each condition cannot be justified in an affirmative manner. We have provided a rationale for each condition set forth below for Dimensional Variances. Therefore, the Planning staff recommends that the Zoning Board of Appeals deny the Dimensional Variance (Z-04-13) based on the following findings contained in this staff report.

- A) Staff finds that practical difficulty does not exist if the strict requirement of the Ordinance is applied to this specific building project and that the Board is authorized to deny the variance in this case. The practical difficulty from failure to grant the variance will not include substantially more than a mere inconvenience in this case. The Planning and Zoning Code specifically states where accessory structures can be located, and in this case, the Appellant can comply with the Code by locating the building further east, beyond the first supporting member of the cottage and out of the front yard. Furthermore, the Appellant has the option of constructing more than one building if additional space beyond the 1,500 sq. ft. allowed for each accessory building is needed.
- B) Staff does not believe that the practical difficulty is exceptional and peculiar to the subject parcel and large lot conditions generally exists throughout the City. The Code specifically states where accessory building shall be located for residential and agriculturally zoned properties. Staff believes that the parcel of land could reasonably be built upon in conformance with the requirements of the Ordinance by simply relocating or redesigning the building. Therefore, the variance should not be granted.
- C) Staff believes that if the variance is granted that the intent of the Ordinance will be altered or that the rights of others will be compromised in that the property can be built upon in conformance with the Ordinance.
- D) Staff believes that the variance requested exceeds the minimum necessary to provide relief from any stated practical difficulty and that the variance should not be granted because of the reasons stated in this report.

Attachments

The following information is attached and made part of this Staff Report.

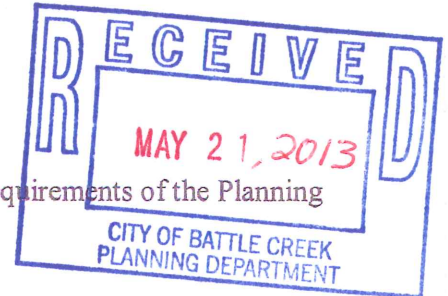
1. ZBA Petition Form (Petition #Z-04-13)
2. Survey of property and proposed location of building
3. Drawings of what the proposed building will look like
4. Aerial photos of the property
5. General assessing information for the property

Date: 5-20-13

Appeal No. 2-04-13

APPLICATION FOR A VARIANCE
ZONING BOARD OF APPEALS

City of Battle Creek, Michigan



An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: P. Jeffrey Colquhoun

Address: 764 Country Club Dr Phone: 269-879-2251

Name of Owner (if different from Appellant): _____

Address: _____ Phone: _____

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to:
(Choose One) Extend Erect Waive Use Convert Enclose

Description: Extend the 1500 ft² maximum size to 2900 sq. ft.
for construction of a pole barn on South Minges
in front-yard for placement.

Contrary to the requirements of Section(s) 1286.03 + 1286.05 of the Planning and Zoning Code, upon the premises known as Colquhoun Farm Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):
To allow for a 2900 ft² barn on this
South Minges property.

Property/Tax I.D. # No. 0085-00-810-0 Size of the Lot: Width 110 Depth 85; Join with
Size of Proposed Building: Width 72' Depth 38' Height 14' (53 Acres)

The following reasons are presented in support of this appeal (complete each section):
(a.) This property cannot be used in conformance with the ordinance without the requested variance because:
The storage barn size is designed to
house farming equipment

- (b.) This problem is due to a unique situation not shared in common with nearby property owners because:

Currently, I do not have a full-time residence on the property

The property is much larger (53 acres) than adjacent owners, which requires equipment for maintenance

- (c.) Granting the variance would not alter the essential character of the area because:

The barn will sit in the tree line over 350ft from South Minges Road. Furthermore the 2700ft² barn represents less than 0.1% parcel size

- (d.) The problem is not self-created because:

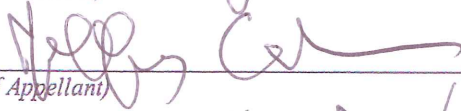
The gravel access road, current barn and Consumers power line are all in close proximity to the proposed barn

- (e.) **USE VARIANCES ONLY** It is not possible to use this particular property for any other use currently allowed in the zoning district because:

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.

P. Jeffrey Colquhoun

(Print Appellant Name)



(Signature of Appellant)

764 Country Club Dr / 4500 So. Minges

(Address of Appellant)

Battle Creek, MI 49015

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.

UP BATTLE CREEK,
CALHOUN CO, MI
FND CCRC MKR

OF BATTLE CREEK,
CALHOUN CO, MI

PLAT OF
PIONEER ACRES #2

SOUTH MINGES RD.

CENTER OF SEC. 35, T2S.
R&W, CITY OF BATTLE CREEK,
CALHOUN CO, MI
FOUND "PK" NAIL

S 89°10'03" E 1322.85'

S 89°10'03" E 1322.85'

UNPLATTED

S 89°10'03" E 1322.97'

UNPLATTED

Subject

N 89°07'38" W 388.75'

SANITARY SEWER
ESSHE L 1159, P. 311.

EXC.
PARCEL

S. LINE OF N.V.?
OF SE 1/4

APPROX.
EDGE OF
MARSH

N 88°36'41" W 19.96'

POND

POND

PARCEL II

PAUL
LAKE

SE CORNER OF SEC. 35, T2S.
R&W, CITY OF BATTLE CREEK,
CALHOUN COUNTY, MI.

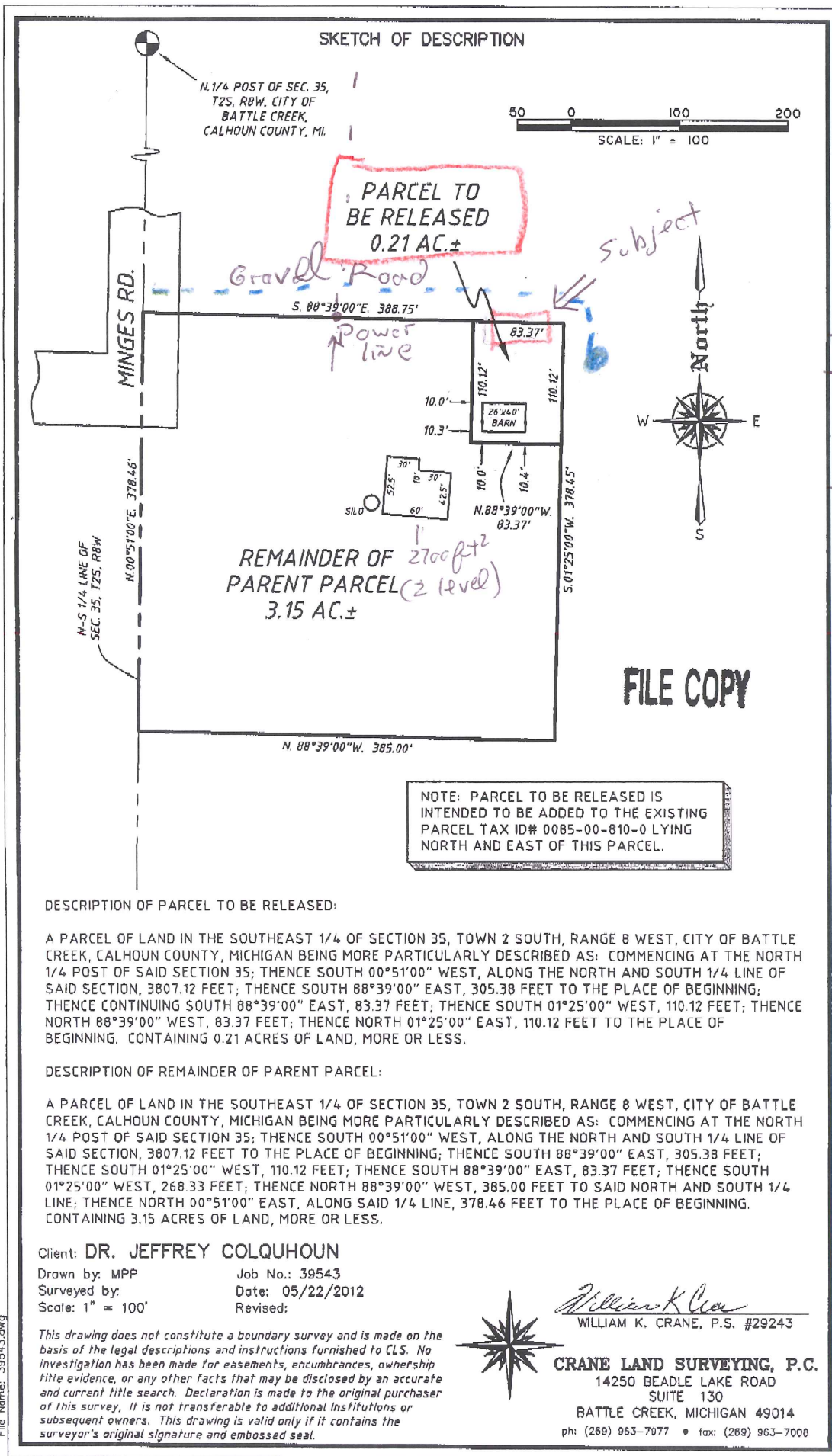
N 00°22'27" E 251.96'

P.O.B.
REMAINDER

S. LINE OF
SEC. 35

N 89°18'36" W 2862.21'

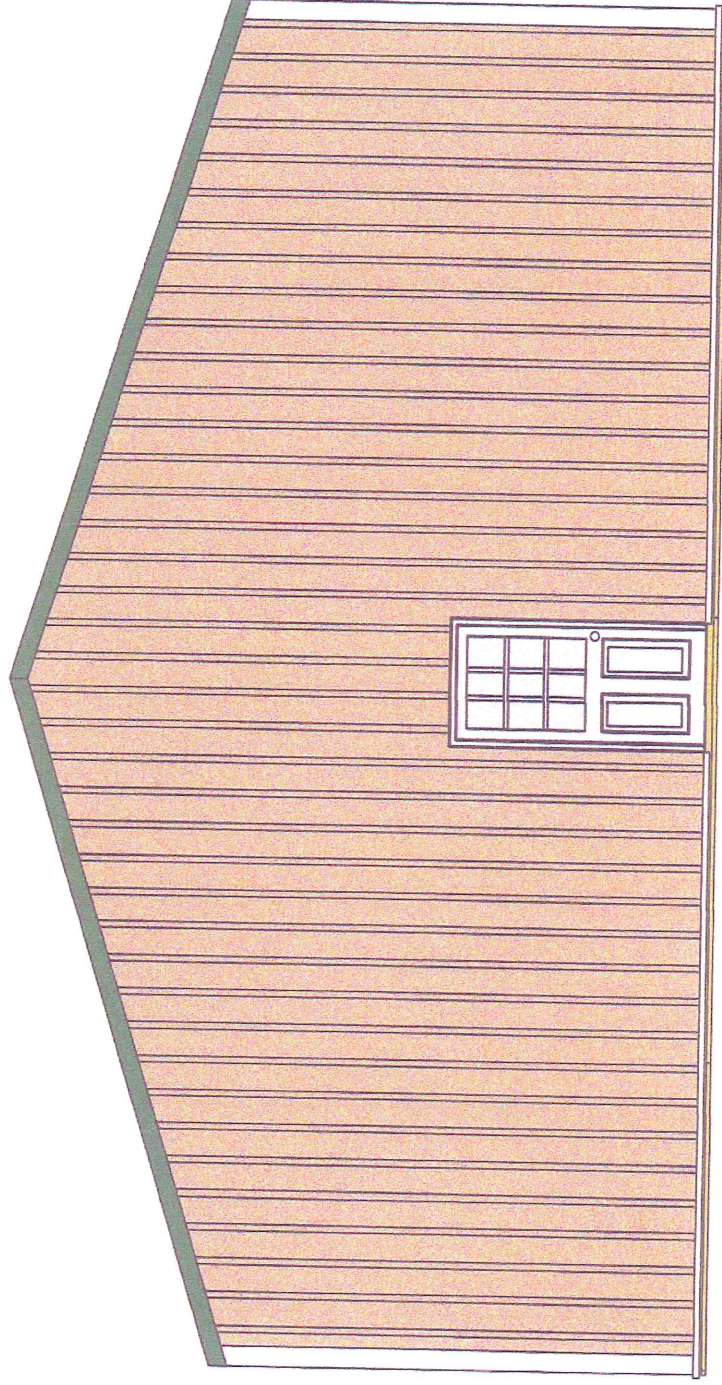
1331.00'



Propose;
38+72 pole
near 2
(approx 2700ft²)
on 0.21 Acre,
New part
of 53 Acre
parcel
10ft set-back
from 3.15 Acre
parcel



EAST SIDE-GABLE SIDE 1 ELEVATION



John Kathy Bakken
Estimate Number: 352
5/9/2013



NORTH SIDE-EAVE SIDE 2 ELEVATION

